

**Filed 12/2/10 by Clerk of Supreme Court  
IN THE SUPREME COURT  
STATE OF NORTH DAKOTA**

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2010 ND 226

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Tilmer Everett,

Petitioner and Appellant

v.

State of North Dakota,

Respondent and Appellee

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No. 20100222

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Appeal from the District Court of Burleigh County, South Central Judicial District, the Honorable Bruce A. Romanick, Judge.

AFFIRMED.

Per Curiam.

Tilmer Everett, P.O. Box 5521, Bismarck, N.D. 58506; self-represented.

Cynthia Mae Feland, Assistant State's Attorney, Courthouse, 514 East Thayer, Bismarck, N.D. 58501-4413, for respondent and appellee.

**Everett v. State**

**No. 20100222**

**Per Curiam.**

[¶1] Tilmer Everett appealed from the district court's summary dismissal of his application for post-conviction relief. This Court summarily affirmed Everett's conviction for gross sexual imposition in State v. Everett, 2008 ND 126, 756 N.W.2d 344. We affirmed the district court's denials of Everett's prior applications for post-conviction relief in Everett v. State, 2008 ND 199, 757 N.W.2d 530, and Everett v. State, 2010 ND 4, 789 N.W.2d 282.

[¶2] On appeal, Everett argues that he was denied effective assistance of counsel in his direct appeal, that his conviction was obtained by the unconstitutional failure of the State to disclose evidence favorable to the defendant, and that the conviction was obtained by the use of evidence from an unlawful arrest. We affirm under N.D.R.App.P. 35.1(a)(6) and (7); see also Everett, 2010 ND 4, ¶ 1, 789 N.W.2d 282 (citing Klose v. State, 2008 ND 143, ¶ 10, 752 N.W.2d 192 (res judicata precludes claims or variations of claims raised in previous proceedings, and misuse of process precludes claims that could have been raised in a prior post-conviction proceeding or other proceeding)).

[¶3] Gerald W. VandeWalle, C.J.  
Dale V. Sandstrom  
Daniel J. Crothers  
Mary Muehlen Maring  
Carol Ronning Kapsner